

COUNCIL MEETING

JULY 31, 2013

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Wednesday, July 31, 2013 at 8:40 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Ms. Yukimura, and unanimously carried.

PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Chair Furfaro: This public comment period does not apply to other public notice which is specifically at 1:30. Is there anyone that wishes to testify on any line item here? If not, we will receive this and we will go into item "E."

MINUTES of the following meetings of the Council:

June 26, 2013 Public Hearing re: Bill No. 2464, Bill No. 2483, and Bill No. 2486
July 10, 2013 Special Council Meeting
July 10, 2013 Public Hearing re: Bill No. 2487 and Bill No. 2488

Ms. Yukimura moved to approve the Minutes as circulated, seconded by Mr. Rapozo and unanimously carried.

CONSENT CALENDAR:

C 2013-265 Communication (07/10/2013) from the County Engineer, transmitting for Council consideration, a Resolution Establishing A Crosswalk

And Eliminating On-Street Parking on Rice Street, Līhu'e District, County Of Kaua'i: Ms. Yukimura moved to receive C 2013-265 for the record, seconded by Ms. Nakamura and unanimously carried.

C 2013-266 Communication (07/12/2013) from the Mayor, transmitting for Council consideration, pursuant to Sections 89-11(g) and 89C-5, Hawai'i Revised Statutes (HRS), the cost items for the State of Hawai'i Organization of Police Officers (SHOPO) Bargaining Unit 12 between July 1, 2011 and June 30, 2017, pursuant to Section 19.13(B) of the Kaua'i County Charter. Ms. Yukimura moved to receive C 2013-266 for the record, seconded by Ms. Nakamura and unanimously carried.

There being no objections, Proposed Draft Bill (No. 2496) was taken out of order.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2496) – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 12 BETWEEN JULY 1, 2011 AND JUNE 30, 2017: Ms. Yukimura moved for passage of Proposed Draft Bill No. 2496 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 28, 2013, and that it thereafter be referred to the Committee of the Whole, seconded by Mr. Rapozo.

There being no objections, the rules were suspended.

BRYSON PONCE: Good morning, Council Chair Furfaro and Councilmembers. My name is Bryson Ponce. I am a Detective with the Kaua'i Police Department and I am also here representing the State of Hawai'i Organization of Police Officers (SHOPO) serving as the Secretary for the State Board of Directors. With me, in the back, is our President Tenari Maafala, our Vice-President Malcolm F. Lutu, and our Kaua'i Chapter Chairman Jesse Guirao. First, I want to say that this was a long process as many know with the collective bargaining process with the contract that expired about two (2) months ago. I commend the Kaua'i Personnel Department representing the Mayor's Office with their very professional and meaningful negotiations across the table as well as the rest of the State and the other islands to try to come up with the fairest regulation for both management, the County and Cities, and our Police Officers across the State. I am in support. I am thankful and hopeful of the funding for our salary increases. When we started out this process Tenari, Malcolm, Jesse and some of our old times on the SHOPO Board of Directors, the wage for Police Officers was so low that we were losing hundreds. You are talking up to three – four hundreds (400) to our west coast counterparts. Our goal was to try and put together, I guess a package that would be very comparable to want to attract College students, keep people home, and get people interested in wanting to be a Police Officer. The challenges that Police Officers face with is very demanding and unfortunate times the Officers are faced with the biggest fears and dangers that not many professions can ever say they encountered in their whole career. We are thankful also to the process and the people of Kaua'i and Hawai'i that support our Police Officers, you folks, the funding bodies that try to manage and balance the budget to make all of this happen. I have been almost fifteen (15) years serving on the Board. This is the third contract I have been a part of negotiating in – the professionalism on the State and Count level, especially here on Kaua'i, you guys are represented very well by the Personnel Department. We are just so thankful for that. Thank you.

Chair Furfaro: On behalf of the Council, I just want to congratulate you on your recent promotion and Detective work. Your service to the County is very much appreciated.

Ms. Yukimura: Thank you, Detective Ponce, well stated in what you said. Could you summarize the terms of the approved agreement that has been approved by the arbitrator.

Mr. Ponce: I am going to let Tenari answer. He will be able to give you more details regarding the summary on that.

Ms. Yukimura: Very good, thank you.

Mr. Ponce: No problem.

Chair Furfaro: Any other questions? If not, thank you very much.

TENARI MAAFALA: Thank you so very much for this great opportunity to come forward and speak on behalf of our Kaua'i County Police Officers specially represented by SHOPO. I sit before you as a twenty-five (25) year Veteran of the Honolulu Police Department as a Sergeant currently overseeing the Peer Support Unit. I have been with SHOPO for the last twelve (12) years as an elected official and I am not one to talk about titles because at the end of the day, titles does not matter especially in the line of police work. It is about the heart of the officers that choose this profession to put their lives on the line for the people in the entire State of Hawai'i and in this case more specifically Kaua'i. It is no doubt that with this threat of Hurricane Flossie, while people are at home getting down with their families, our officers are running to the shorelines to protect the people of Kaua'i. I understand you have a huge protest with the potential of things getting out of hand but I pray that it will not be that way. I hope it will be a peaceful debate on a very hotly contested issue but again, half of the Department will be there servicing almost three thousand (3,000) as anticipated. What I want to shed some light on, is the reality of what it is that we face as police officers and with all due respect, it is taken for granted that the fact is, "it is just a job." With all due respect to that term and what has been said out there, unless you walk in a shoe of a police officer, you will never know truly what it is like. One of the things that I always preach if I am given the chance to speak on behalf of our police officers is, it is one thing to put our lives on the line, as I can share, just off the top of my head, Honolulu – forty-five (45) in the line of duty Vets, here in Kaua'i – four (4), on Big Island – five (5), and on Maui County – five (5).

In the line of duty, that is no doubt about it, that is something that we all dread and something that we definitely do not look forward to for obvious reasons. I empathize with those that say that every life is priceless. The fact that you are a police officer, putting your lives on the line for the most part – our strangers; all be at here in Kaua'i, Maui, Hawai'i County, and O'ahu, but the fact of the matter is that we choose to do what we do in putting our lives out there.

We got to make a split second decision to take a life – to save a life... in many cases; lives. In my case 1999, off duty, and that is another thing, as police officers, we are on twenty-four, seven (24/7). We are obligated to respond whether you have your badge and uniforms on or you are at home. In this case, it was mid-night, I

was at my parents home of New Year's Eve and there was a call that kids running around crazy in the housing and there was a guy armed with a gun outside, long story-short, fast forward, that was a gang member with a gun that already fired shots at innocent people in the streets. "We" stood in the middle of the street, almost like a Western movie where he shot at me twice and I returned fire. I sit before you with a scar of taking this young man's life. Am I proud of what happened? Of course not. But I live with the memories of taking somebody's life, although I did every by the books, I was cleared, I was still sued by the family but the more daunting thing, had one (1) of those bullets hit me, my wife and my three (3) daughters would not have a husband and father. That is the reality of our job and that is something that sometimes people take for granted that what police officers do is "just a job." Unless, you walk in the shoe, you will never know.

Let me just give you some statistics and forgive me for not having this readily available but in talking about "calls for services," in 2012, Kaua'i County had thirty thousand three hundred eighty-three (30,383) calls for service to the 911. Of all those calls, eighty-five percent (85%) was for Police Department (PD), eight percent (8%) was for Emergency Medical Service (EMS), and six percent (6%) was for fire. Given the fact that we represent approximately a hundred and eighteen (118) members here for the Kaua'i Police Department – Frontline Officers and correct me if I am wrong, if you know the number but just off the top of my head as far of population here – approximately seventy thousand (70,000) but in Honolulu it is even a lot crazy and forgive me for saying "Honolulu," because we are not in Honolulu. I just wanted to put it out there to give you an illustration. In Honolulu in any given day there are a million people – Kama'āina and visitors alike. When you only have three hundred (300) officers on an eight (8) hour shift protecting this many people, it is crazy. So, it is just about the same. Even though the percentages and numbers are different but when you think about Kaua'i here, there is only a hundred eighteen (118) to a hundred twenty (120) Frontline Officers on an any eight (8) hour shift here protecting seventy thousand (70,000) people – there are only fifteen (15) of them covering the entire County of Kaua'i. I am going to support Proposed Draft Bill No. 2496 in support of "your" Police Officers, not SHOPO's but your Police Officers. The Police Officers that deserve this pay raise that was arbitrated, went through the whole process both sides of the isle had their fair chance at the hearing to present their best argument and with all due respect to the efforts of the employers group that was represented there, obviously we did a better job and I say that humbly in convincing the arbitrator our arguments merit the arbitrators final and binding decision. I am here for any questions and I will gladly answer any questions that you may have.

Chair Furfaro:

Thank you very much.

Ms. Yukimura: President Maafala, thank you so much for being here and for you very compelling testimony. I just wondered if you could summarize the terms of what the arbitration settled on.

Mr. Maafala: There are still items that are still being ironed out. If you are going to look across the board – the percentage, it is basically three point five (3.5), three point five (3.5), and four (4), and four (4). There are other things like the Standard of Conduct that was included to include the uniform with an allowance, which was also included as far as cost items. Now, again, do not quote me on those specific numbers because like I said I am only thinking off the top of my head. I do not have my paperwork with me but that is what it rounds out to. If you remember what the Honolulu County had disclosed, in total across the

board is approximately sixteen point eight percent (16.8%) over four (4) years although this is a six (6) year contract. We understood and agreed for the 2011 and 2012 years, we agreed to no pay raise, in fact we froze our step movements. Those who qualified for step movement would not have a retro-pay for those two (2) years. The thing that we are thankful for that we stood fast by we will not take a pay cut and we stood fast with the sixty/forty (60/40) split on the medical for the first two (2) years. This pay raise that was rode by the arbitrator is for the next four (4) years from 2013 – 2017.

Ms. Yukimura: The twenty/forty (20/40) split in medical:
that is for the full six (6) years?

Mr. Maafala: Actually the sixty/forty (60/40)?

Ms. Yukimura: Sixty/forty (60/40).

Mr. Maafala: Correct.

Ms. Yukimura: That is for the full six (6) years?

Mr. Maafala: As it stands right now. With all due respect the EUTF because it is not arbitral that is something that we have to lobby the Legislature because it is a different item. That is something that we have to go and lobby the respective Legislative Committee's that oversees the EUTF.

Ms. Yukimura: Thank you for the explanation.

Ms. Nakamura: Thank you very much for your testimony and for being here personally. With these step increases and wage increases, does that bring starting Police Officer up to parity with the counterparts are getting on the mainland?

Mr. Maafala: Great question. That is exactly what it is. That is another key point and I know Secretary Bryson Ponce allotted to that because that is exactly what happened. I would say that within the last two (2) or three (3) years, we have not had as many Officers leaving the islands. They are staying home because pay is parity now. When Malcolm and I first came in our starting salary was barely twenty-six thousand dollars (\$26,000) a year. Now we have it up to where it is parity to most of the west coast counterparts that is about fifty-three thousand (\$53,000) to fifty-four thousand dollars (\$54,000) starting for a recruit. Now, you do not have officers leaving like they did six (6) or seven (7) years ago. I do not know the specific numbers as far as Kaua'i's concern but I know Honolulu in training a recruit from the day of the application process up to their one (1) year probation, it costs Honolulu for one (1) recruit approximately a hundred twenty-five thousand (\$125,000) to a hundred thirty thousand dollars (\$130,000) a year just for that training phase. I am pretty sure that it is similar to all Counties in that respect. As I sit before you, we have officers now wanting to come back home and they are willing to start over just to be back home and that is what it is all about. We respect them. They had to do what is best for their family to seek other pay parity and be able to afford for their family for what they wanted.

Ms. Nakamura: Thank you very much.

Mr. Maafala: Thank you.

Chair Furfaro: Any other questions? If not, I have one (1). I think long-term, our challenges is to really have a better retention of the officers that we have.

Mr. Maafala: Yes, sir.

Chair Furfaro: If we can acquire another five (5) years of service and so forth for retention, the long-term training costs may be reduced.

Mr. Maafala: Yes.

Chair Furfaro: Do you see that as the benefit of the standard of conduct differential?

Mr. Maafala: Yes, sir.

Chair Furfaro: Is that contributing to retention?

Mr. Maafala: Along with retention, now the Officers realize that they are definitely held in a high accountability as well. Not only do you stand a chance, if you violate rules, regulations, and policies – especially the law, you jeopardize all that for your family. The short answer to your question is, yes, it is. It does help in that sense very, very much.

Chair Furfaro: Are there any more questions? On behalf of the Council, I want to thank-you for being here. We have no more questions.

Mr. Maafala: Thank you.

Chair Furfaro: Is there anyone that wishes to testify on this item before I call the meeting back to order?

There being no objections, the meeting was called back to order.

Mr. Bynum: I want to thank the Representatives from SHOPO for being here today to answer questions. This recent binding arbitration is going to be a challenge for the County of Kaua'i but we have all for a long time had a goal to fully man our Police Department and a goal beyond that to expand beats to put more Police Officers on the beat. We need parity. If this proposal brings us to that, I think it is a really good thing. These challenges are great because we all wanted to expand our Police Department but we have not been able to get the personnel to do it and for the first time since I have been in the County which is over ten (10) or twelve (12) years, we are fully man this year. We can start expanding. This is going to be a challenge to finance but it is our responsibility as the Council to do that because we all want to make sure that public safety is protected. I want to close by thanking Jesse and Bryson for their local leadership and how much they taught me about police work. We get to hear it from the Chief side but it is important to hear it from the rank in file as well. Jesse and Bryson have surely accommodated that for me over the years. Bryson, thank-you for your leadership at the State level as well. I appreciate it. These are challenging times. This will have my full support. It was brought before an arbitrator and this decision was made and it is our responsibility to fund it. Thank you.

Mr. Rapozo: I just want to thank the SHOPO Reps for being here. Mr. Maafala, thank you for sharing your story. I so wanted to share that story so many times on this floor but did not feel it was appropriate without getting your consent, so, I appreciate that. I think you basically brought it home for us and made it really clear from firsthand experience what officers got to go through. In addition to the split second decisions that you got to make, it is the after math, as you mentioned, the civil lawsuits that you got to indoor for years. I think people just do not think about that. I do not think they realize what happens after you have to do something like that and it does not have to be that severe, it does not have to be that serious as an officer shooting. It could be something as simple as a traffic stop and resulted in a complaint that drags on and then the media gets a hold of it, puts it in the papers, and the officers kids got to live through that. I agree that it is going to be challenging but this is one and you said it best, the arbitrator ruled based on the evidence and it was compelling enough that the arbitrator ruled in favor of SHOPO. I fully support this. I think it will bring parity and I think like you said it will bring this profession back to where it needs to be so we can get young men and women interested in this job and this career because I believe it is a good one. I think this will help us now, again, bring the interest back to the profession. Thank you very much for being here.

Mr. Kagawa: I remember a few years back when there were a lot of people from Kaua'i interested in being a firefighter because I guess they felt that the pay was well suited for the job that was done. They had people with Engineering degrees and all kinds of degrees applying for the firefighter and in talking to Officer Perez, he informed me that during the last recruiting session that there were a lot of police applicants with college degrees. He is seeing a better quality of candidates because of the pay is starting to be attractable as a profession. That is the outcome of approving these kind of raises is that we will have better candidates and that would lead to a better police force. I will be supporting this.

The motion for passage of Proposed Draft Bill No. 2496 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 28, 2013, and that it thereafter be referred to the Committee of the Whole, was then put, and carried by the following vote:

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|-----------------------|---------------------------------|------------|
| FOR PASSAGE: | Bynum, Hooser, Kagawa, Nakamura | |
| | Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST PASSAGE: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

C 2013-267 Communication (07/24/2013) from the County Clerk, requesting Council approval to execute the Kaua'i Veteran's Center Rental Agreement, which includes a provision for the renter to be responsible for injuries arising out of the Kaua'i County Council's use of the Kaua'i Veterans Center on July 31, 2013 for the public hearing on Bill No. 2491: Mr. Rapozo moved to approve C 2013-267, seconded by Ms. Yukimura.

Chair Furfaro: Members, as you know this is fast track for today. Is there anyone in the audience that wishes to speak? Seeing no one, any further discussion?

Ms. Yukimura: I want to thank the Staff of the Kaua'i Veterans Center for their really supportive to our incredible Staff because of the last minute changes to the venue. I also want to express my deep disappointment in the Community College for actually withdrawing their agreement to have the hearing at the Kaua'i Community College (KCC) Performing Arts Center. That was a terrible problem created for us by their last minute withdrawal. I do not understand all the reasoning and I accept to speak with both the Administration and to the Board of Regents about this because a University should be a forum for a robust decision on issues of great concern to the community. I was very shock by the last minute withdrawal and I am very sorry for all the inconvenience that the public has been put through and our Staff.

Chair Furfaro: The value we have in our community, the value of kōkua really came through with the Veterans. They did a wonderful job in responding to our needs and changes. The reality is that we do have a little more space but also I want to thank the Transportation Department on our shuttle service that has been set up. I also want to direct my comments to the Clerk, the Deputy Clerk, and the entire Staff who has put this together – I want to thank them for their work.

The motion to approve C 2013-267 was then put, and unanimously carried.

C 2013-259 Communication (07/11/2013) from the County Attorney, requesting Council approval to expend additional funds up to \$20,000 for Special Counsel's continued services to advise and represent the County Council in matters relating to the investigation of personnel matters involving the County Auditor's Office, and related matters: Mr. Kagawa moved to receive C 2013-259 for the record, seconded by Mr. Rapozo.

Chair Furfaro: Is there any discussion?

Mr. Kagawa: I am just making the motion to receive these twenty thousand dollars (\$20,000) because we have a subsequent communication C 2013-270 for the correct amount of thirty-two thousand dollars (\$32,000).

Chair Furfaro: Thank you for that clarification. As mentioned by Mr. Kagawa, subsequently this will come up again in item C 2013-270 for the correct amount. Is there anyone in the audience that would like to speak on the first item? Come right up, Glenn.

There being no objections, the rules were suspended.

GLENN MICKENS: I want to thank Council Chair for meeting with us yesterday, we appreciated that very much. I have a very short testimony. I find it interesting that we have two (2) separate requests asking for twenty thousand dollars (\$20,000) and thirty-two thousand dollars (\$32,000) for Special Counsel services relating to matters involving the County Auditor's Office. Why not just one (1) request for fifty-two thousand dollars (\$52,000) as they appear to be the same. Even more interesting is the fact the we have nine (9) Deputy County Attorney's and yet none of they appear to be capable of representing the County in these cases. If we are going to hire outside Counsel most of the time in all these cases for millions of dollars, maybe we would be wiser and frugal to do away with most of these positions saving salary and benefits and just hire outside Counsel as an on needed basis. In having read the claim against the County Auditor's Office, I find it strange that this issue by one (1) disgruntle employee is causing so much one-sided defense by our County without any mention of what the Auditor's Office has to say or is the Council setting him up and use this one-sided defense as a convenience to get rid of Ernie Pasion. Mr. Pasion and his Staff has had their Operating Budget cut so drastically that they cannot continue to operate at a level that was so high that the Association of Local Government Auditors' Peer Review Team gave them accolades for their work. A recent letter to the Forum by Ms. Celia Isobe certainly seems to give the facts and numbers to backup what she said, that a concerted effort is underway to relieve Mr. Pasion from his position. If, as she said, the Mayor cut one (1) of the Auditor's key personnel positions from his budget and the Council, who had the authority to reinstate it went along with the cut and then some more then Mr. Pasion's position must be in jeopardy.

To think that he and his Staff have done six (6) outstanding audits above and beyond the expectations of the served public; to think that this dedicated person has the respect and admiration of the entire community, and that we need far more honest qualified people like him in these key positions is absurd to think that anyone would want him gone.

Hopefully, you Councilmembers will restore the budget he needs to operate and make sure that Ernie is at the head of this valuable Department that we need so badly. Yes, Council Chair, I remember what you were telling me about the two hundred thousand dollars (\$200,000) and I have taken... I would recommend that somehow Mr. Pasion or his Staff be here and we have a dialogue here or a Q&A to go back and forth because I am getting two (2) different pictures. After reading the six (6) audits that was done, I am highly impressed and everybody that I have talked to is saying the same thing. I did hear your words about the two hundred thousand dollars (\$2,000) that went into the General Fund and his not being able to use a hundred and thirty-seven thousand dollars (\$137,000) for that thing. This is my testimony and anything you guys can do, I appreciate, okay.

Chair Furfaro: Let me clarify something for you, Glenn. First of all, three (3) of the six (6) audits will be on the August 14 agenda.

Mr. Mickens: Yes.

Chair Furfaro: So, there will be more dialogue then. I also want to point out the fact that audits go through a period of drafts before they get to the final piece.

Mr. Mickens: Right.

Chair Furfaro: Secondly, I want to make sure you understand that Mr. Kagawa's motion was to receive this twenty thousand dollars (\$20,000) which means it basically kills this money. So, it is not this money plus the thirty-two thousand dollars (\$32,000), it is a review of invoices that corrects it at not being fifty-two thousand dollars (\$52,000) all together but only being thirty-two thousand dollars (\$32,000).

Mr. Mickens: Okay.

Chair Furfaro: So it is not plus, plus. It is a reconciled amount and that is why this is for receipt.

Mr. Mickens: It is not the twenty thousand dollars (\$20,000) plus the thirty-two thousand dollars (\$32,000)?

Chair Furfaro: No.

Mr. Mickens: It appears the same on the agenda.

Chair Furfaro: I just wanted to share with you that that was a carryover on the agenda but the corrected amount is yet coming up but it is not the two (2) amounts. It is not plus and plus.

Mr. Mickens: Okay.

Chair Furfaro: I enjoyed my time with you, Ken, and the Shadow yesterday too.

Mr. Mickens: Joe sends his apologies. I guess it was pouring in Līhu'e and he says there is no way that it is going to be on but the sun was out over there and I appreciate it again.

Ms. Yukimura: What do you mean when you say, “We really cut his budget?”

Mr. Mickens: He cut his own budget by three hundred ten thousand dollars (\$310,000) then the Mayor cut it by a hundred thirty-seven thousand dollars (\$137,000) more – that one (1) key position, okay? Ernie needed that to fund that one (1) key position that he does not have now and then the Council cut another forty thousand dollars (\$40,000) so I think it came to a total of four hundred and some thousand dollars, I believe, total. With that kind of a cut, from what we understand, he cannot operate particularly without that one hundred thirty-seven thousand (\$137,000) for that key position. Our Council Chair shared yesterday that he had a two hundred thousand dollars (\$200,000) excess, I guess, in his budget and that went into the General Fund. My question was, “Could he not use that hundred and thirty-seven thousand dollars (\$137,000)?” His response was, “The hundred and thirty-seven thousand dollars (\$137,000), once was cut by the Mayor, no, it cannot come out of that two hundred thousand dollars (\$200,000) which we revert it back to the General Fund.”

Ms. Yukimura: Okay, thank you. I understand what you are saying but I do not know what the facts are but thank you.

Mr. Bynum: Glenn, I do not think your numbers are right. We went through a budget process where many Departments had cuts based on their variances. This was not unusual, in my opinion. But what you said today, I want to look at those numbers because that is not what is in my head.

Mr. Mickens: Right.

Mr. Bynum: I will look and talk to you later.

Chair Furfaro: There are ways to do a carryover but it sounds like Mr. Bynum is going to have a separate dialogue with you as the Finance Chair.

Mr. Mickens: Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2013-259 for the record was then put, and unanimously carried.

There being no objections, C 2013-270 was taken out of order.

C 2013-270 Communication (07/19/2013) from the County Attorney, requesting Council approval to expend funds up to \$32,000 for Special Counsel's continued services to advise and represent the County Council in matters relating to the investigation of personnel matters involving the County Auditor's Office, and related matters: Mr. Bynum moved to approve C 2013-270, seconded by Ms. Nakamura, and carried by the following vote:

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|-----------------------|---|------------|
| FOR APPROVAL: | Bynum, Hooser, Kagawa, Nakamura, Rapoza, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

C 2013-268 Communication (07/11/2013) from the Director of Parks & Recreation, requesting Council approval to accept a donation of \$758 from Jim and Sylvia Thacker to purchase a replacement bench to be located at the Hanalei Pier Pavilion Park: Mr. Kagawa moved to approve C 2013-268 with a thank-you letter to follow, seconded by Ms. Yukimura.

Chair Furfaro: I want to thank the Parks Department to staying close with this.

The motion to approve C 2013-268 with a thank-you letter to follow was then put, and unanimously carried.

C 2013-269 Communication (07/17/2013) from the Prosecuting Attorney, requesting Council approval to establish and hire one (1) fifty percent (.50) Full-Time Equivalent (FTE) Office of the Prosecuting Attorney (OPA) Special Investigator position on an 89-day contractual basis utilizing funding currently budgeted in OPA: Mr. Kagawa moved to approve C 2013-269, seconded by Ms. Nakamura.

Chair Furfaro: They are taking one (1) full-time Prosecuting Attorney who is going to half time and there are hiring the other position the other half time, so, the money comes out the same. That is how I understand it.

Mr. Rapozo: I was hoping that we could get this refer to the Committee. I would like to see a presentation. At this point, the money is the same but what concerns me is that we are adding another position. We are going from contract to a regular new position and we just got through the budget process. This is exactly what we talked about where they come to us with a budget, there was no mention of this in the budget discussion and less than a month after the budget is in order or effect, we get a request for a new position. That concerns me because a fifty percent (50%) part-time position does come with benefits as well versus the eighty-nine (89) day contract which does not. This is an impact and I just wish that if new position requests come to this Council that we have a presentation. It does change the number of positions and again, this is so soon after the budget, I would like to see... I will just end it with that.

Chair Furfaro: What Committee?

Mr. Rapozo: It does not matter which Committee. I would assume Public Safety being that it is the Prosecuting Attorney's Office. I just want to see a presentation and the rationale for doing this. I think the contract process is so much better, in my opinion because it is subject to funding. Once we approve a new position, we commit to funding that position and I really want to see the workload or the justification for another additional position.

Mr. Kagawa: I would like to support Mr. Rapozo's request primarily because I remember during the budget, they wanted an additional Attorney position and now Administratively he is cutting full-time to a half-time, instead of getting plus one (1), he is getting minus one half (1 ½). He is further away from where he wanted to be during the budget. So far from what I am hearing, I am happy with the job that Justin has been doing but I just would like to get the accountability out in the open. Thank you.

Chair Furfaro: So, right now we are looking perhaps to remove the motion to approve with a new motion that sends it to Committee. Any further discussion?

Ms. Yukimura: Point of inquiry.

Chair Furfaro: Sure.

Ms. Yukimura: Can we just refer to the Committee that has higher precedence that the main motion? Yes? So, we do not have to withdraw, we can move to refer...

Chair Furfaro: I want to make sure that I was painting the picture of what we are doing for the general public versus the procedural part. Any six (6) of you can make the motion.

Ms. Yukimura moved to refer C 2013-269 to Environmental Services / Public Safety / Community Assistance Committee on August 7, 2013, seconded by Mr. Kagawa.

Mr. Bynum: Mr. Kollar is not available to discuss this today?

Chair Furfaro: The members have said that they would like to just refer it for further discussion with him next week. Mr. Kollar is saying that he wants to take a current position that exist full-time and make it half-time to hire another... there are concern about duplicating the position number.

Mr. Bynum: I am not objecting to a deferral. I wondered if he was available today.

Chair Furfaro: This is a referral, not a deferral.

Mr. Bynum: I just want to point out while I have the floor that Mr. Kollar also had a position cut. Position cuts were something that happened in many Departments.

Chair Furfaro: What we do have on the floor right now with a second a referral to the Committee on Public Safety for further discussion next week. I want to call for a roll call vote on this.

The motion to refer C 2013-269 to the August 7, 2013 Environmental Services / Public Safety / Community Assistance Committee was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR REFERRAL: | Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST REFERRAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

LEGAL DOCUMENT:

C 2013-271 Communication (07/16/2013) from Ian K. Jung, Deputy County Attorney, recommending Council approval of a Grant of Pedestrian and Parking Easements relating to Kahuaina Plantation Subdivision (S-2007-02) and Kahuaina Plantation Subdivision Phase II Subdivision (S-2009-15):

- Grant Of Pedestrian And Parking Easements; concerning real property identified as Lot 15-A (TMK (4) 5-1-003:006), Lot 15-D (TMK (4) 5-1-003:032) and Lot 15-K (TMK (4) 5-1-003:039).

Mr. Rapozo: I would like to move to refer C 2013-271 to September 1, 2013 Planning Committee Meeting. In response to some of the testimony that I received and some very serious concerns... let me get my second before I talk.

Mr. Rapozo moved to refer C 2013-271 to September 1, 2013 Planning Committee Meeting, seconded by Mr. Hooser.

Mr. Rapozo: I just want to let the Councilmembers know that myself and Councilmember Kagawa did a site visit along the Alaloa and it was very concerning about what is going on down in that location. Subsequent to the site visit, I submitted a request to the Department of Land and Natural Resources (DLNR) and basically the response we got was that we do not have resources to come and assist. I had requested the presence of Mr. Aila personally to come here to do a site visit with us to go and identify where this Alaloa and the historical cultural trail is located and the fact that there may be some developments that interfere or encroach and the response I got was, "I am sorry, we just do not have the resources." I want to be very clear and the testimony that I have read and happen to agree with, this may in fact encroach on some Alaloa land and interfering with some cultural pathways. I am asking for an expanding referral so we can get the time to communicate with DLNR. I cannot believe they cannot afford to be here, I know Hawaiian Airlines is expensive but I cannot believe they would not

make an effort to be here and educate and information this Council at that Committee Meeting. I said "Planning" because I do not know where it goes and I am assuming and correct me if I am wrong, Mr. Chair, if you believe it should go to another Committee. I think it is important that once and for all we get the players and the stakeholders here to discuss what is really going on, on that coast. We need to make that determination on whether or not this County is going to move forward in preserving that Alaloa. I think a month will give us ample time to start that dialogue and maybe in fact have them here present at the Committee Meeting.

Mr. Bynum: I want to support everything that Mel just said. I was going to ask for a deferral for one (1) month just to give the community and myself some more time to look into some of these matters. I have had a staff assignment for some time and I am working on either a Resolution or an Ordinance related to the Alaloa. I would like some more time and I think taking it to Planning Committee and having a more robust discussion is an excellent suggestion.

Chair Furfaro: Let me do a little housekeeping here first with the Clerk, there was a motion by Mr. Rapozo to refer to the Planning Committee for the first of September. I believe that date is not compatible with what is on our calendar. What is a September date for Planning?

Clerk: The first Committee Meeting in September would be September 4th.

Chair Furfaro: September 4th. I would like to get a corrected motion.

Mr. Rapozo moved to refer C 2013-271 to September 4, 2013 Planning Committee Meeting, seconded by Mr. Hooser.

There being no objections, the rules were suspended.

RICHARD SPACER: Good morning Chairman and Councilmembers. I appreciate the motion to refer to the Planning Committee. I fully support that motion and my testimony and I believe the testimony of Hope Kallai expresses some serious concerns some of which were already mentioned. The other thing that I talk about besides the obvious need to reconcile the location of the Alaloa which I want to reiterate for the public watching at home this feature is stipulated by our Circuit Court Judge Randall Valenciano, the Attorney's from FALKO Partners, and the Office of the Attorney General. So, it is not like there is no Alaloa here, there certainly here and everyone is on the same page. The Deputy Attorney General that came the Alaloa in the quite title proceedings for Waipake, Julie (inaudible) is the one who is on record as doing that. Having said that, I would advise the Council that it would not be in your best interest, at this stage, to

proceed further on this and I will interrupt myself and say that I want to thank FALCO Partners for bidding by the rules that require public beach access for subdivision but the title to this property is not correct. Often people give me documents and they do not want to be identified but you can do in the next month, your own due diligence and obtain the title report from Old Republic Warrant Deed from Title Guaranty for the Waipake Subdivision – the Kahu‘aina Subdivision. As of the first week of June, a title report that I was given, the latest item in the title report is the deed from Kirkwood to FALCO Partners which is 2001. The 2008 Circuit Court stipulation that there is indeed an Alaloa trail in this subject property is not in the title report. I have a testimony that I forwarded you an E-mail from one (1) of the Staff at Old Republic states that the matter is not discussed at DLNRs Bureau of Conveyances. That maybe true but if you know anything about title searching, you know that the Bureau of Conveyances is not your one (1) stop shopping. You do not only take what the Bureau of Conveyances has, put it in your folder, and say that the research is done. Obviously, you have to check court records too and it appears that it has not been done in this case.

Chair Furfaro:
(3) minutes.

Excuse me, Richard, that is your first three

Mr. Spacer: Does anyone have any questions? So, what I respectfully request is in this month or so in your due diligence as Councilmembers, to speak with or perhaps even ask to appear someone from Old Republic to explain why this Court stipulation is not in their title paperwork meaning that any respective buyer that comes along and wants to buy this property which has been very recently been advertised for seventy million dollars (\$70,000,000) would not have a clue that there is State owned property in this parcel. I would suggest that you ask the Staff of the Bureau of Conveyances what they got in their records and I supposed you would also have to ask the Attorney General's Office and the Attorney's from FALCO, "what is up with all of this?" That concerns dealing with the property under a title the appears to be less than clear. I also know that there are other issues about the pedestrian easement intersecting this feature, that has to be reconciled and the way to do that as we know is for the State to do its job and survey this. If the Alaloa trail is there, the simple question all of us need to ask in the community is, "okay, where is it?" If you are going to build a mauka/makai pedestrian County easement, it is going to intersect the Alaloa because the Alaloa's job is to run along nearside the sea – close to shore. The pedestrian trail runs to the beach – that is its job. Where do they meet? It is a simple question. To me it seems me that you need a State surveyor to come and answer that question. You will also have to do that with the other properties in the immediate area that are under controversy, so you might as well do it all at the same time but for this agenda item, you certainly do need to do that, I would think. Also, look into the matters of the title to make sure that you are absolutely sure why this feature – the Alaloa our public property is not in that title report. Thank you.

Ms. Yukimura: Are you willing to provide whatever title reports you do have?

Mr. Spacer: I can provide the one with the person's name whited out, that was the condition that the person wanted to proceed under. Also, what I suggested to the title company was, look, I am a member of the public who is making a very serious allegation about your title not being correct and since it is your title company's documents, why do you not just punch the button and look up the title report yourself and see, oh Mr. Spacer, is right, it is not in there. They were even asking me to provide a copy of what I got, well, that is ridiculous, they have their own copy. Why are they fishing for who my informant is? That is what it sounds like to me. So, you would have to do that anyway as due diligence...

Chair Furfaro: Mr. Spacer, the question was posed to you, would you be able to provide us that document?

Mr. Spacer: With that stipulation that the name is whited out.

Chair Furfaro: Yes.

Mr. Spacer: Yes, I would.

Chair Furfaro: Anymore questions for Richard?

Mr. Spacer: Thank you.

PETER WALDAU: I want to support Mel Rapozo's motion for a referral on this agenda item. The points that have been made is that this transmittal on this agenda item, that you are considering right now is a pedestrian easement that does intersect this Alaloa. The first page that I given you shows this Court stipulation that the Alaloa is existing in the subject property. These documents are given to you in more detail in the testimony that has been presented to you by Hope Kallai. The second letter that we have here is one that you may not be familiar with, on July 12 the Planning Department, Michael Dahilig did sent a letter to DLNRs Chair William Aila asking to come and locate this Alaloa next to Lepeuli. Now, because the pedestrian is right along the boundary of Lepeuli, we know that this is going to be physically connecting at some point because the pedestrian is mauka/makai and the Alaloa is lateral. We know we are connecting with it, okay? The other point that I would like to make is on this last letter, this is the State chiming in saying that, "we own this Alaloa on these properties on the South of the subject property," now we are talking about the Lepeuli property which is owned by Waioli Corporation and then further to the south are their Tax Map

Key (TMK). The sentence that I would like to bring your attention to is the second sentence of the letter and that is the fee simple ownership of the Alaloa is with the State of Hawai'i. It is crucial, I think, the way we are talking about these trails, I think is a little bit confusing, for example, if we said that Kūhiō Highway passes through the Ahupuaa of Lepeuli, the way that I would prefer that it be verbalized is that Waioli Corporation owns the property on either side on an entity claimed in fee simple by the State of Hawai'i. When we talk about these trails, I think it is important to use the same language that the State of Hawai'i has fee simple ownership of the trail and that FALKO Partners owns land on either side of the entity claimed in fee simple ownership by the State of Hawai'i. In this transmittal, the reason FALKO Partners cannot grant on land owned in fee simple by the State of Hawai'i is because it is not theirs to grant. So, these are the kinds of item that you can address in your referral when you have time to look at this in detail. That is my testimony.

Chair Furfaro:

No questions. Thank you.

RANDY REGO: Aloha. I live in Waipake, so anything happening in Waipake, cuts right to my heart. It is interesting that these two (2) gentlemen that I have never met before but I will meet with them after, came before me. I appreciate Mr. Rapozo's request to delay and the will support that motion. I offer my support and anything I can do. Just briefly though, I am here to also represent my family who was given Waipake in the great mahele, so my family knew Waipake very closely however in 1902 when there was a Court case, it was all taken away including Ka Loko Reservoir which was built under authorization of my family. That was all taken away and eventually the Lessees who were leased the property from my family, they became the owners of Waipake. I know some of the stuff in Waipake but I do not know all, even my grandmother that was born and raised in Waipake did not know the facts that her family actually had received it – all. So, I offer my help in any way that I can. I know more knowledge of the Westside of the beach where Kepuhi is and with this proposal for the public, as you know, like with the Kaua'i Guide books and other guide books were access to certain sites have been allowed and then overrun those sites have come under attack for not being pristine anymore and even the DLNR in some places close off these sites from public access just to protect them. I am not saying that I do not want the public to not be blocked but we all understand, you have the people that will respect the land and go down there and not throw opala there but we also have those in the public that do not care. Even at this point in Kepuhi when I go down there are opala there and access is restrictive yet it still happens. I would just like to say that whatever I can support in rectifying the situation in Waipake, I am at your service. Mahalo.

Mr. Bynum: Mr. Rego, thank you very much for being here today. I remember in your prior testimony from you that was very helpful for

me as a Councilmember and understanding how Gentlemen Estates are removing Ag water from families who traditionally had it. As we do our due diligence, I may give you a call and I just want to thank-you for your testimony.

Mr. Rego: No problem. Thank you.

Chair Furfaro: Is there anyone else that wishes to testify on this item? Did you want to testify?

Ms. Yukimura: I would like to ask our County Attorney...

Chair Furfaro: Well, pose the question to me before I call the meeting back to order, you would like the County Attorney up?

Ms. Yukimura: Yes, please.

IAN K. JUNG, Deputy County Attorney: Good morning Council Chair and Councilmembers.

Ms. Yukimura: Thank you, Ian for being here. So, you are the Attorney who has worked on this grant of pedestrian and parking easements for Waipake, right?

Mr. Jung: That is correct. This has been worked on since 2008 in trying to identify the location and I was not with the County Attorney's Office at the time but I am here to help follow through on the condition that we require public access in the subdivision map approval. I do have a presentation but if the matter is going to get referred to the Planning Committee, I can do it then but another Deputy will have to step in for my place because I will be out the first three (3) weeks in September. But that is fine, I can give all the background information to another Deputy.

Chair Furfaro: Let me get clarification here, I want to ask the motion was for September 4th because of our timeline today, I would like to have your presentation on the 4th but you are not going to be available?

Mr. Jung: I may but depending on... my wife is due to give birth.

Chair Furfaro: Oh, congratulations.

Mr. Jung: So, it is all contingent on timing.

Chair Furfaro: Okay, it is contingent on time. Do you have a backup for your presentation?

Mr. Jung: I did not, as of today but I can get somebody certainly ready and available for coverage. If you want, it is not necessarily a PowerPoint but I do have the maps outlined with the highlighted areas and location areas but I can...

Chair Furfaro: Again, because of the time constraints we have today, I would like to hold it for September 4th. I would like you to give some serious thought to that, okay?

Mr. Jung: Okay.

Chair Furfaro: I am going to give the floor back to Councilmember Yukimura and then I am going to recognize Mr. Rapozo.

Ms. Yukimura: I wonder if somehow we could have Mr. Jung's presentation some time before September but still have the discussion and the research on the issue of the Alaloa deferred to September...

Chair Furfaro: That is a good suggestion. So, I would like something from your Office that gives us an alternative date for a presentation only. Does August 21st work for you?

Mr. Jung: That is fine with us.

Chair Furfaro: I want to make sure the communication is for a presentation only.

Mr. Jung: Understood.

Chair Furfaro: And the item will be deferred on the 4th of September.

Mr. Jung: I have been contacting the AG's Office on this issue. I will see if they can also come in and maybe we can do a dual presentation on the issue.

Mr. Rapozo: I would agree that we can get the presentation a head of time before the September meeting. I do have other questions as it relates to this issue that have been raised by members of the community, some of what you heard today. I will be sending over some questions

specific questions as to what has been brought to our attention and hopefully we can get those questions answered as well at that time.

Mr. Jung: Okay.

Mr. Rapozo: Thank you.

Ms. Nakamura: Does anyone else have questions?

Chair Furfaro: Ian, on the 21st, I will put the presentation in the Planning Committee.

Mr. Jung: Okay.

Chair Furfaro: And you tentatively are going to be available to us?

Mr. Jung: Correct.

Chair Furfaro: I want to make sure from the standpoint of the presentation of the item, it is very clearly worded as a presentation because it will come back up on September 4th for the discussion.

Mr. Jung: Understood.

Chair Furfaro: We will arrive and not make any decision on where it goes from that Committee until September 4th but I want to make sure from your Office side, we clearly understand a presentation that is in anticipation on the September 4th meeting.

Mr. Jung: Got it.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2013-271 to the Planning Committee on September 4, 2013 was then put, and unanimously carried.

Mr. Bynum: I appreciate the dialogue and several Councilmembers have expressed. I believe in the long run that these issues will be resolved that we are unhappy with the landowner and anything like that, it is just the community is asking for a little more due diligence – I am asking for it and I appreciate the Council doing that. In terms of the big picture of this Alaloa, clearly there is an Alaloa on Kaua'i. Clearly the State has in the past made pretty

aggressive efforts to identify that Alaloa and make sure that it is available to the citizens of Kaua'i in the future. Now, their efforts not been very great since the 80's, they lost funding and they just kind of left everything static at the State level. As Councilmember Rapozo has said if you ask the State to engage on this now, they say that they do not have time or people and it is difficult. It is clearly in our community's interest to preserve this trial. The individual land things, I do not want to get into because there is going to be differences and dispute but it is clearly in our interest to establish this trial for Kaua'i's future and not let it fall by the waist side. When the State stopped being aggressive and pursue these individual land issues, landowners started to think, "oh okay, this has gone away and we will not ever have to accommodate this trial." Some of them are arguing that the trial is not here, the trial is not there. I do not want to get into where it is but who would disagree that it is good for Kaua'i to establish that trial in each entity and preserve it for the future? I do not think anybody would disagree with that. That is something I am working on conceptually. How can the County engage with the State to do this which is clearly in the best interest of our community? Thank you.

Chair Furfaro: Mr. Bynum, I would hope that you will have that time when it comes back on the agenda because I gave you a privilege over extended myself, perhaps, but understand that that is happening. Mr. Kagawa, you wanted the floor? Please, that agenda item was voted on and so forth. I am going to give you the floor and we should be moving on.

Mr. Kagawa: Thank you, Mr. Chair. If I could recommend Ian, if you can talk to Yvette from our Staff because the last time myself and Mr. Rapozo went out with the Kallai's, Yvette did snap some pictures. If we can have the map and maybe some pictures to know where we are talking about. Sometimes on a map, we are still confused as to what particular area and I think maybe some of the pictures might be helpful. Thank you.

Chair Furfaro: Mr. Rapozo, did you want the floor? I am going around the table because... Vice Chair, did you want the floor? Anyone else? No. JoAnn, you have the floor.

Ms. Yukimura: I agree that the Alaloa is a public trust issue. I also think that there is some real management issues of how it is going to be managed and Mr. Rego's point about controlling potential public damage because of people using the trial improperly. So, it is a very big issue but I think it has to be handled and DLNR is the one where the jurisdiction lays.

Chair Furfaro: Thank you for reaffirming that the jurisdiction ultimately is with the State and DLNR on this matter. Now, that item is closed. I want to move on to the next item. Members, please note I gave a personal courtesy to one (1) member which was then extended to all but that is not

typically our practice by our rules. September 4th for the discussion and August 21st for a presentation, both, happening in the Planning Committee.

CLAIMS:

C 2013-272 Communication (07/16/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by EAN Holdings, for damages to their vehicle, pursuant to Section 23-06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2013-272 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Ms. Yukimura, and unanimously carried.

C 2013-273 Communication (07/16/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Aloha Medical Centers, for damages to their property, pursuant to Section 23-06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2013-273 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Ms. Yukimura, and unanimously carried.

C 2013-274 Communication (07/19/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Regency at Puakea, for property damage, pursuant to Section 23-06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2013-274 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Ms. Yukimura, and unanimously carried.

COMMITTEE REPORTS:

PLANNING COMMITTEE:

A report (No. CR-PL 2013-06) submitted by the Planning Committee, recommending that the following be Approve as Amended on second and final reading:

“Bill No. 2464 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE,”

Ms. Nakamura moved for approval of the report, seconded by Mr. Rapozo, and unanimously carried.

ENVIRONMENTAL SERVICES / PUBLIC SAFETY / COMMUNITY ASSISTANCE COMMITTEE:

A report (No. CR-EPC 2013-08) submitted by the Environmental Services / Public Safety / Community Assistance Committee, recommending that the following be Received for the Record:

“EPC 2013-06 Communication (05/21/2013) from Committee Chair Rapozo and Council Vice Chair Nakamura, requesting the presence of the Civil Defense Manager and the Emergency Management Officer to provide a briefing on the status of the Tsunami Evacuation Maps and an update on the new modeling technologies from the University of Hawai‘i,”

Ms. Nakamura moved for approval of the report, seconded by Mr. Rapozo, and unanimously carried.

A report (No. CR-EPC 2013-09) submitted by the Environmental Services / Public Safety / Community Assistance Committee, recommending that the following be Received for the Record:

“EPC 2013-07 Communication (07/11/2013) from Committee Chair Rapozo, requesting the presence of the County Engineer and the Chief, Wastewater Division, Department of Public Works, to provide a briefing on the status of the Administration’s efforts to address concerns regarding the odiferous compounds coming from Coco Palms Sewage Pump Station at the Wailua Wastewater facility near the entrance of the Wailua Houselots subdivision,”

Ms. Nakamura moved for approval of the report, seconded by Mr. Rapozo, and unanimously carried.

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2013-18) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2485 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 14, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO THE PLUMBING CODE,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Bynum, and unanimously carried.

A report (No. CR-PWPR 2013-19) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2013-13 Communication (06/25/2013) from Committee Chair Kagawa, requesting the presence of the Director of Parks and Recreation to provide an update on the scoreboards that are being used during athletic events at Hanapēpē Stadium, Vidinha Stadium, and Kapa‘a Park. This briefing should include, but not be limited to, whether the scoreboards are in need of some form of repair and maintenance, and if so, the timeframe expected for completion of the repair,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Bynum, and unanimously carried.

A report (No. CR-PWPR 2013-20) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2013-14 Communication (06/26/2013) from Committee Chair Kagawa and Council Chair Furfaro, requesting the presence of the Director of Parks and Recreation to provide an update on Black Pot Beach Park. This briefing should include, but not be limited to, any issues associated with the comfort station and septic system at the park,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Bynum, and unanimously carried.

A report (No. CR-PWPR 2013-21) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2013-15 Communication (06/26/2013) from Councilmember Yukimura, requesting the presence of the Director of Parks and Recreation to provide an update on the County of Kaua‘i’s Parks Master Plan,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Bynum, and unanimously carried.

FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE:

A report (No. CR-FED 2013-12) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Received for the Record:

“FED 2013-03 Communication (05/24/2013) from Committee Chair Bynum and Councilmember Yukimura, requesting the presence of the Director of Economic Development to provide an overview on the Office of Economic Development’s process for energy and tourism related grants. This briefing should include, but not be limited to, selection criteria for grantees, prioritization of programs, reporting requirements, and all other requirements,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Rapozo, and unanimously carried.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2013-14) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

“COW 2013-04 Communication (06/28/2013) from Council Chair Furfaro, requesting the presence of the Director of Parks and Recreation to provide a briefing on the Administration’s plans to restore the former Hanalei Courthouse facility. This briefing should include, but not be limited to the following:

- Plans for renovation;
- Construction plans, including any necessary site work, such as flood walls, parking, etc.;

- The proposed use(s); and
- Whether meetings were conducted with the Hanalei community to present the Administration's proposed plans for renovation and use of the facility,"

Ms. Yukimura moved for approval of the report, seconded by Mr. Rapozo, and unanimously carried.

RESOLUTION:

Resolution No. 2013-60 – RESOLUTION ESTABLISHING A CROSSWALK AND ELIMINATING ON-STREET PARKING ON RICE STREET, LĪHU'E DISTRICT, COUNTY OF KAUAI: Mr. Kagawa moved to adopt Resolution No. 2013-60, seconded by Mr. Rapozo.

Chair Furfaro: Public Works, would you like to give us any commentary on this? Members, are there any questions?

Ms. Yukimura: Yes, can you come and explain it please?

There being no objections, the rules were suspended.

LARRY DILL, P.E., County Engineer: Good morning.

DOUGLAS HAIGH, Chief of Buildings: Good morning.

Ms. Yukimura: This crosswalk will be at the Rice Street and Kele Street intersection, oh okay, so that will be at the post office? Can we put it up? Will you explain to us how this will work?

Mr. Haigh: We are relocating... currently under construction, are the Līhu'e Civic Center site ADA improvements. Part of that improvements, we are relocating the entrance to the Līhu'e Civic Center, Rice Street side parking so that the entrance to the parking lines up with Kele Street and also we are providing a crosswalk and that is what this Resolution does. This Resolution establishes a crosswalk across Rice Street at this new intersection between Kele, Rice, and the Līhu'e Civic Center Rice Street parking area driveway.

Ms. Yukimura: Tell everybody where Kele Street is.

Mr. Haigh: Kele Street is a street in between the Bank of Hawai'i and the Post Office.

Ms. Yukimura: Okay. Do I see a median strip of some sort or not?

Mr. Haigh: No, you do not. What we are providing are flashing beacons for this crosswalk to enhance the pedestrian safety.

Ms. Yukimura: It is no longer going to be four (4) lanes?

Mr. Haigh: We are not changing the traffic configuration of Rice Street with this Resolution.

Ms. Yukimura: Okay, so it is going to be four (4) lanes?

Mr. Haigh: That is correct.

Ms. Yukimura: And part of the danger is that the car in one (1) lane stops and then the other lane, not seeing the person who is crossing is just coming right through.

Mr. Haigh: That is a concern, yes, and that is one (1) of the reasons why we are providing the flashing beacon to give additional information to the motorist that there is a pedestrian in the pedestrian crosswalk.

Ms. Yukimura: So, you are moving the crosswalk from in front of the service station?

Mr. Haigh: No.

Ms. Yukimura: That is also going to remain?

Mr. Haigh: That is correct. We are not removing any crosswalks. This Resolution is adding a crosswalk, the flashing beacons, and removing six (6) parallel on-street parking stalls on Rice Street in front of the Museum. That is the extent of this Resolution.

Ms. Yukimura: Okay, thank you for the explanation.

Ms. Nakamura: I understand the Kaua'i Museum Board of Directors did have some concerns about the removal of the six (6) parallel parking stalls fronting Rice Street.

Mr. Haigh: That is correct.

Ms. Nakamura: Can you describe your discussions with the Executive Director and some of the Board Members?

Mr. Haigh: Yes, I actually had discussions this morning with the Executive Director and also the President of the Board. We contacted them early on in this process and we are aware that they would be concerned and we offered them four (4) to six (6) temporary reserve stalls to make up for the Museum, they came back, and the President counter-offer six (6) to eight (8). We had further discussions yesterday and we are agreeing to the six (6) – the compromise and then we are also going to try to do some other things for the Museum. Right now they are having a hard time. They are a non-profit, they still have to make money to support the Museum and so they are concerned about their visitors and so we are working with them on some other issues also but with the Resolution being strictly the issue is the parking. The Administration is committed to providing at least six (6) reserve stalls for the Museum patrons within the Līhu'e Civic Center area, additional. It is possible that in the interim, we will locate them on the interim Eiwa Street parking. We are going to walk the site with them and I believe that would be the best for them, it would be the most visible, and the also the most accessible to the Museum. It is going to be a continual dialogue and the Administration supports the Museum.

Ms. Nakamura:

Thank you for that update.

Mr. Bynum: I am going to open up by saying that I am in total support of this and I think those of us who work and walk around Līhu'e, this is going to be a vast improvement. We all see people jaywalking in this area between our County building and the Civic Center, the banks, and the post office. I think a lot of people will be happy about the restoration of the crosswalk. In my personal observation, we should have removed these six (6) parking lots long ago. Do you know the history of this? My understanding is that when Rice Street was designed and approved by the State, it had no on-street parking and that parking was added by the Council, have I got that right?

Mr. Haigh: In my memory is, there was great community concern on eliminating all parking on Rice Street at that time and that it did come to Council and the original design was modified.

Mr. Bynum: These six (6) spaces, to me, are the ones that are most problematic that cause safety issues. I do not think there are that critical for either the Museum or the... the trade off is not worth it to provide three (3) sites and then create the traffic disaster we have had out there on Rice which has improved in my mind already with the closing of Eiwa Street. Now, when I cross that street, I feel a little more secure because I do not have to deal with people who are frustrated trying to make a left turn and turning around and doing all the things happened at that intersection. I think these improvements are necessary. The loss of a couple parking places are unfortunate but for the safety reasons, it is worth it.

Ms. Yukimura: You have added more parking on Eiwa Street with the closure?

Mr. Haigh: That is correct.

Ms. Yukimura: It is actually safer if Museum visitors use that parking then the on-street parking. Does that not already substitute?

Mr. Haigh: They would like a sign there and have the parking reserve for them so it is clearly... so that there are stalls that are clearly reserved for them. Right now, I think I am the only one (1) parking over there.

Ms. Yukimura: I have some concerns about reserved parking because when there are not visitors to use it and there might be other needs, then it is going to stay empty? The whole value of public parking is that it serves many needs. It is not just for one (1) business and so you have that flexibility and therefore you have more parking capacity, actually. If you have reserved parking for all different uses and it is only for that use then it cannot be used for other purposes. Now, reserved parking for maybe a couple of the workers makes sense but for visitors... I mean, there is a lot of parking that can be used for all those purposes. Visitors will have to the Museum will have access to a lot of parking but others who might need parking will not have access to the reserved parking for visitors of the Museum. The whole value of public parking is that it is not reserved for one (1) business and that gives you... and that is why actually we need to do more of that for Lihu'e then... instead of requiring each business to provide certain amount of parking which is very expensive for the business, you can provide public parking which is much more flexible and gives more capacity.

Mr. Haigh: I understand what you are saying and I think, right now we are looking at an interim fix but we are looking at the long-term of how we are going to manage the Civic Center. Part of this temporary closure of Eiwa Street is to see if that is working and if we are ready to move forward in the near future with a permanent closure of Eiwa Street. If we do that at that time, we are going to clearly reorganize our parking in that whole area of the Civic Center between the Historic County Building and Pi'ikoi Building. If we determine that, no, we cannot close Eiwa Street, we do have a design that we can move forward that is a more complete street makeover Eiwa Street and I think in those processes will be the time to really sit down and figure it out because in the solution of keeping Eiwa Street open as a complete street project, we are also changing the pedestrian connection between Piikoi and the Historic County Building. In that, we are looking at creating an area immediately behind the Museum which would be for parking and at that time, I think, it would be really good to have that discussion on how do we manage all this parking. I think that is a very good point that you are making

and that point of view needs to be address when we get into this final design process.

Ms. Yukimura: I can see it as an interim solution but not as a permanent one because... so, it makes sense what you are saying that we would have an overall management plan for parking in this whole area. Let us hope the State gets off its butt, excuse me, and does something with the Court Building and Police site. If we are going to restore Līhu'e corridor to its past prestigious place in Līhu'e, we need to look at all of that. Thank you.

Chair Furfaro: I think the definition of *okole* for what Councilmember Yukimura wanted to say. Who owns the Museum?

Mr. Haigh: I believe Kaua'i Museum owns their parcel.

Chair Furfaro: Okay, so we have meets and bounds for their...

Mr. Haigh: Yes, we do.

Chair Furfaro: Okay. Now, your memory serves you well is not acceptable to me.

Mr. Haigh: Okay.

Chair Furfaro: I want you to go back with an estoppels and find out what did we give in the way of parking spaces on our property? Okay? Let us make sure we have an understanding of what we committed to any kind of a lease for parking stalls, first. Okay? That is what we are obligated to. Once you get that, let us then know if we can get that confirmed to an estoppels, we can then negotiate for them what their needs are with the same point that Councilmember Yukimura has mentioned is, the benefit is that everybody has access to public parking. Let us go back and do a little research other than... Doug, how long have you been with the County?

Mr. Haigh: I just had my twenty (20) year recognition.

Chair Furfaro: Absolutely wonderful. And when year thirty-five (35) rolls around and you are retired, we want to go to a lease document that say what we committed to a way of parking stalls. That is what we want. I just want to point that out. Let us start from there. The legal department should be involved in that because that is a tenant lease for committing to those stalls, that is a tenants lease. The building is theirs, I understand that but there maybe some

master agreement that goes way back that indicates how many stalls they are supposed to have. Let us have it defined in a lease, okay? Let us do that first.

Mr. Bynum: I want to remind... every three (3) years we have this discussion about parking here and it gets out of control. There is an Ordinance that requires the County of Kaua'i to permit parking for employees over there. We brought this up about three (3) years ago and it is like, "why are you not doing this Ordinance when the community was complaining about having no place to park for drivers licenses and getting really tight over there," we looked up and there is an Ordinance on the books right now that says, "you are to permit parking." When we brought this up three (3) years ago, the Administration says, "do we really want to go there? Do we want to follow the law? We will make sure that the County vehicles are parked on this side." That has relieved these issues a lot just Administratively having employees move to the side. I share JoAnn's concerns about reserved parking because we need multi-purpose parking in the long run. I think Councilmember Furfaro has a good point that we contractually obligated because that will trump but overall we need to make sure there are sufficient public parking for the Museum, for conducting County business, and if that means employees have to move or do permitting... so we can handle the parking issues here without reserving parking, we just have to do what every business does and say, "employees, you do not get the best parking places." On O'ahu, County and State employees pay for parking if they want to park near or they walk a mile or more for free parking. Now, I do not want us to charge for parking or even go into permitting but it is the Administration's responsibility in my mind to see that employees are directed in a way that they do not take so many spaces that the public cannot conduct their business. I think you need to monitor that on an ongoing basis. When are the times when our parking lots are full and the public cannot get there? So, anyway, I just wanted to make those comments. I mean, we are in violation of the law. The County is not following that law. I understand that there maybe good reasons not to but on one (1) level it is like, "what do you mean you are not? Does the law not apply?" I support all of your efforts to make these changes. There overdue. Traffic circulation is going to improve on Kaua'i in downtown because of these changes along with Hardy Street, safety is going to improve, and the esthetics of this community in this area is going to improve. I appreciate, which is since 2000 we have been... we have a Civic Center Plan, we have all of these plans and so we are starting to actually do them and that is a very positive thing. Thank you.

Mr. Kagawa: Larry, has your discussions with the Museum included the trolley that comes and it stops right in front of the Museum, will they be able to do that?

Mr. Dill: I am going to defer that to Doug who had direct conversations with the Museum.

Mr. Haigh: Actually, I had that specific discussion this morning. What I recommended is, let us get together with the driver and make sure that there is a safe way to drop the people off with the trolley. There is no reason why they should not be able to bring the trolley in to drop off and so if there are concerns on how they are bringing in the trolley, we are going to meet with them and make sure we can help them have a place for the trolley to drop off.

Mr. Kagawa: The intention is to still allow them to... because it is thirty (30) second at the most stop where they pull on the side, the visitors...

Mr. Haigh: It is a driveway – we can certainly worked that out. I do not see any issues.

Mr. Kagawa: I know you mentioned that the primary concern was trying to make sure they get the visitor revenue to continue and with the two (1) cruise ships that come in – they bring a lot of people, I am sure that brings some of their revenue in and I would think that the trolley stop would be important to the Museum for revenue. Thank you.

Chair Furfaro: Members, I have three (3) more procedural items that we have to do and when we take the break at 10:30, I want to be finish. If you have questions, let us keep them short to the point.

Ms. Yukimura: I want to tell you that I was working one (1) Saturday or holiday in my office in front, I was standing there reading the Charter on something on my air conditioner and this trolley came right in front and he is talking about the County Building and I felt like a monkey in a zoo. When they passed by me, he saw me, and he said “hi.” It is easy for them to drop passengers off right here. It is safer.

Chair Furfaro: Does anyone in the audience wish to testify?
Mr. Mickens?

Mr. Mickens: Just a comment. This says, “eliminating on-street parking Rice Street,” I am presume that means just here. Tim brought up an excellent point. Remember when Rice Street was made four (4) lanes that was going to keep traffic flowing and all of a sudden... remember Tony Summers sitting here yelling about it, “how can you allow on-street parking on Rice Street if you are going to have it four (4) lanes?” It just did not make sense. Is there not some way that they can do something to prohibit on-street parking on Rice Street and let the traffic keep on flowing as it was meant to be?

Chair Furfaro: Glenn, I think you are aware that subsequently after some dialogue with Planning, Mr. Rosa's recommendation out here was finally accepted. Mr. Dill has made the arrangements. He took out three (3) stalls across from the gas station there and by the church so that it is four (4) lanes. The second part of his suggestion was so that the flow give the first center lane that is going south, give them thirty (30) seconds on a turn light, so that the traffic can go left.

Mr. Mickens: Right. Good idea.

Chair Furfaro: I think that is being resolved. Complements to Mr. Dill and Mr. Haigh – they have taken Mr. Rosa's suggestion on removing those stalls.

Mr. Mickens: Which is very good.

Chair Furfaro: But I think it has taken some time but they did concede to Mr. Rosa's suggestion. I think the rest of Rice Street is another subject. We are dealing with this intersection right at the moment.

Mr. Mickens: Was it the Council that prohibited or allowed parking on Rice Street?

Chair Furfaro: All I can remember is, as you said and as you described, Tony Summers yelling at us. Okay? That is as far as I will go right now. But I think your point is an evaluation of Rice Street again.

Mr. Mickens: Yes, because for safety reasons. Any cars coming down there and you are coming down that lane, all of a sudden you are jumping out into the other lane, it is accident prone.

Chair Furfaro: Right now, we are still trying to get them to follow up on Joe Rosa's second suggestion about that thirty (30) second left hand turn light.

Mr. Mickens: Joe, I am tickled to death that you are adhering to what he is saying because he is a very smart guy. Thank you.

Mr. Taylor: I was glad to hear in Doug's presentation that we were only talking about the area in front of the Museum but I am concerned the way this is on the agenda because it... and I have not read the Resolution and maybe it clarifies it there but on the agenda it says, "Resolution establishing a crosswalk and eliminating on-street parking on Rice Street." It does not indicate what part of Rice Street, so it could be interrupted that all of Rice Street parking

was being eliminated. I think it needs to be clarified for that purpose. Again, I hope that as we move forward with eliminating parking on Rice Street, that all of the merchants will be notified that this discussion has taken place. It should start now and not wait till the time to pass a Resolution. Thank you.

Chair Furfaro: Thank you for pointing out the grammatical pieces here but obviously we took this subject as the establishment of the crosswalk and then mainly the parking stalls in that area but your point is well taken.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to adopt Resolution No. 2013-60 was then put, and carried by the following vote:

| | | |
|-----------------------|----------------------------------|------------|
| FOR ADOPTION: | Bynum, Hooser, Kagawa, Nakamura, | |
| | Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST ADOPTION: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Chair Furfaro: Now, the next item I would like to do since we went through the Auditor's piece and the money was approved, I would like to get a motion to receive Executive Session ES-659.

EXECUTIVE SESSION:

ES-659 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with a briefing in matters relating to the investigation of personnel matters involving the Office of the County Auditor and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Kagawa moved to receive ES-659 for the record in open session, seconded by Ms. Yukimura and unanimously carried.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:27 a.m.

Respectfully submitted,


JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

:dmc